

**Michigan Department of Labor & Economic Growth**

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**

735 East Michigan Avenue, P. O. Box 30044  
Lansing, Michigan 48909

**LENDER AGREEMENT**

THIS AGREEMENT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY, a public body corporate and politic, Lansing, Michigan (the "Authority"; Authority forms may also use the term "MSHDA"), and \_\_\_\_\_ (hereinafter referred to as the "Lender").

**W I T N E S S E T H**

WHEREAS, the Lender is duly qualified to engage in the business of originating mortgage loans in the State of Michigan, is a mortgagee approved by Federal Housing Administration (the "FHA"), or is an approved seller and servicer of mortgage loans to and for the Federal National Mortgage Association ("FNMA"), or the Federal Home Loan Mortgage Corporation ("FHLMC"), and desires to sell to the Authority such mortgage loans as from time to time the Authority and the Lender may agree upon;

WHEREAS, pursuant to Act No. 346 of the Public Acts of 1966, as amended, the Authority is authorized to purchase mortgage loans made to eligible borrowers for the long-term financing of single-family housing units and desires to contract for purchase of such mortgage loans with lenders that the Authority determines to be eligible Lender of mortgage loans; and

WHEREAS, by Resolution adopted October 28, 1983, the Authority has authorized the Executive Director to enter into Agreements on behalf of the Authority;

NOW THEREFORE, in consideration of the promises and the consideration described in Section 7 hereof, the parties agree as follows:

1. This Agreement and the warranties, representations and agreements herein shall attach and apply to each of the above-described mortgage loans (hereinafter individually referred to as an "Authority Mortgage Loan") closed, sold and/or serviced by the Lender on behalf of the Authority.
2. The Lender warrants that it will comply with all applicable State laws and the Authority and governmental regulations, rules and manuals in the performance of this Agreement.
3. The Lender warrants that it will comply with all applicable provisions of the National Housing Act, as amended, and with all rules and regulations issued thereunder and the rules and regulations of private mortgage insurance companies in the performance of this Agreement.
4. The Lender warrants that it will comply with the non-discrimination provisions of Article I, Section 2 of the Constitution of the State of Michigan, the Civil Rights Act of 1964 (78 Stat. 252), the Regulations pursuant to such Act, and Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965.

5. The Lender shall not be authorized or empowered to waive or vary any term of any note or mortgage evidencing and securing an Authority Mortgage Loan.
6. The Lender shall maintain in full force and effect during the term of this Agreement, at its own expense, each of the following:
  - A. A Fidelity Bond;
  - B. Errors and Omissions Insurance;
  - C. Theft insurance;
  - D. Forgery Insurance;
  - E. Qualification as an FHA-approved, VA-approved, RD-approved or private mortgage insurance company-approved mortgagee (Lender agrees that it will not originate any loans that it is not approved to originate); and
  - F. Qualification as an approved Seller/Service to FNMA or FHLMC, if not an FHA-approved mortgagee.

All bonds or insurance policies shall be in amounts and contain coverage and be placed with a carrier qualified to do business in the State of Michigan (the "State") and not unacceptable to the Authority. The Lender shall furnish a certificate from its insurance carrier naming the Authority as a certificate holder of the bonds or policies, or the bonds or policies shall name the Authority as one of the parties insured.

7. The compensation to be paid to the Lender for its Services hereunder shall be as follows:
  - A. For processing and closing an Authority Mortgage Loan, the Lender shall be entitled to payment from the Borrower in the amount of not more than one percent (1%) of the principal amount of such Authority Mortgage Loan. The Lender may be reimbursed from the Borrower for the reasonable and bona fide costs incurred in processing and closing an Authority Mortgage Loan, such as an appraisal fee, credit investigation fees, survey charges, recording fees, title insurance premiums, etc. The Authority shall purchase from the Lender an Authority Mortgage Loan that is in conformance with this Agreement, the operating manual, and other directives from the Authority, according to the pricing schedule contained in Exhibit A. The Lender shall receive no other payments from any source as to any Authority Mortgage Loan purchased by the Authority.

The Authority reserves the right to not purchase any Authority Mortgage Loan that does not, on or after the scheduled date of the borrower's third payment to principal and interest (irrespective of when the payment is actually received), conform with the requirements of Section 10, below. In the event the Authority determines to exercise this right with regard to any Authority Mortgage Loan, the Authority will give the Lender written notice that it will not purchase the Mortgage Loan.
  - B. For release of the servicing rights to a Mortgage Loan after its sale to the Authority, the Authority shall, at the time it purchases the Mortgage Loan, pay to the Lender an amount equal to three quarters of one percent (3/4%) of the principal balance of such Authority Mortgage Loan.

8. The Lender shall submit each Mortgage Loan closing file to the Authority's designated sub-servicer within five (5) business days following the date of the Authority's advice of purchase. The closing file will consist of copies of those documents that the Authority or the Authority's sub-servicer may designate from time to time. Lender agrees that prior to the Authority's purchase of any Mortgage Loan, the Lender will service or arrange for service of the Mortgage Loan. Lender agrees that it will pay any penalties assessed by the Authority's sub-servicer regarding Lender's failure to have the Mortgage Loan adequately serviced prior to the Authority's purchase, or regarding the incompleteness or inaccuracy of any closing files. Lender will also reimburse the Authority for any penalties the Authority may pay on behalf of the Lender for such inadequacy, incompleteness or inaccuracy and for any costs the Authority may incur in addition to those penalties. Lender agrees that it will fully cooperate with the Authority's sub-servicer in setting up the Mortgage Loans for sub-servicing. Lender acknowledges that the terms of this paragraph are material provisions of this agreement.
9. A loan package submitted to the Authority for Commitment must contain the documents described in the attached Exhibit B. Each document should be complete and signed where appropriate. All documents must be dated within ninety (90) days of the submission date to the Authority. Original documents should be sent to the Authority, except as otherwise indicated.
10. The Lender shall close and sell an Authority Mortgage Loan in accordance with instructions issued by the Authority from time to time. The documents described in the attached Exhibit C.I. must be submitted to the Authority for the purchase of an Authority Mortgage Loan. Lender must submit the other documents in Exhibit C.II and III as indicated.

The Lender shall also pay to the Authority or the Authority's sub-servicer, as directed by the Authority, at the time the loan is submitted for servicing loan setup, any funded escrows received by the Lender from the Borrower. Any points received by the Lender from the seller or builder, if allowed, are to be remitted to the Authority at the time the loan is submitted for loan purchase.

The documents referred to in Exhibit C II and III, must be submitted within six (6) months of the closing date. If the Lender does not submit the documents indicated above in satisfactory form within the six-month period, the Lender shall, at the sole discretion of the Authority, repurchase the Loan from the Authority for the price of the then-outstanding principal balance, plus accrued interest, late charges and any other costs advanced or expended by the Authority in connection with that Loan plus any premiums as set forth in Exhibit A that the Authority may have paid to the Lender, including the service release fee.

11. The Lender shall perform all of its duties hereunder with due care, diligence, and promptness. The Lender further agrees to meet all performance criteria described in Exhibit D within the time frames enumerated.
12. At the Authority's discretion, upon the Authority's request, the Lender shall repurchase from the Authority any Authority Mortgage Loan covered by this Agreement, for an amount equal to the then-unpaid principal balance of such Authority Loan, plus accrued interest and costs incurred by the Authority with respect thereto, plus any premiums as set forth in Exhibit A that the Authority may have paid to the Lender, including the service release fee, upon ten (10) days written notice by the Authority, if any of the following shall occur:

- A. After the date of purchase by the Authority of any Authority Mortgage Loan, the Authority determines that any misstatement of material fact by the Lender, the Broker or the borrower exists in any documents;
  - B. The borrower shall default by failing to be current in loan payments at the time the Authority purchases the Loan, or by failing to make the initial payment due after the Authority purchases the Loan. The amount required by the Lender to repurchase any loan shall be reduced to the extent the Authority receives reimbursement for such Authority Mortgage Loan through other sources, e.g. mortgage insurance, hazard insurance, and so forth, as applicable;
  - C. For the reasons stated in Sections 7A or 10, above, or Sections 23 or 24, below.
13. The Lender shall permit the Authority or its authorized representative to examine all books and records pertaining to Authority Mortgage Loans at any time during business hours.
14. This Agreement shall not be assignable by the Lender or its successors without the written consent of the Authority or its successors or assigns. This Agreement shall inure to the benefit of the parties hereto and their respective successors, and upon the assignment by the Authority or by any of its successors or assigns of this Agreement, the obligations of the Lender hereunder shall run in favor of such assignee and such assignee shall succeed to all of the rights of the assignor hereunder, and such assignor shall be released from all of the rights of the assignor hereunder, and such assignor shall be released from any and all obligations of the Authority under this Agreement. Notwithstanding the foregoing provision of this section, upon the assignment of this Agreement, the Lender shall have the right to terminate this Agreement upon thirty (30) days' written notice to such assignee of this Agreement.
15. In the performance of its duties as Lender hereunder, the Lender shall be an independent contractor acting in its own behalf and for its own account and without authority, express or implied, to act for or on behalf of the Authority in any capacity other than that of an independent contractor and in no respect, save as herein expressly set forth or as may from time to time be authorized by the Authority in writing. The Authority may, by express writing for that purpose or otherwise, control the manner or extent of performance of all acts to be done by the Lender hereunder for the benefit of the Authority, or may waive such performance. No waiver shall be deemed a continuing waiver, and no failure on the part of the Authority to exercise wholly or in part any rights hereunder shall prevent a later exercise of such or any other right.
16. Notwithstanding any provision herein to the contrary, this Agreement shall terminate immediately upon the mailing of written notice of termination by the Authority to the Lender upon the happening of either of the following events:
- A. The violation by the Lender of any material provision of this Agreement; or
  - B. The appointment of a receiver or liquidator of or for the Lender or the making of an assignment for the benefit of creditors or composition with creditors by the Lender, or an adjudication of insolvency of the Lender or the filing of an involuntary petition in bankruptcy against the Lender.

The Lender agrees that if any of the events specified in paragraph (B) of this section shall occur, it will give written notice thereof to the Authority within two (2) days after the happening of such event.

Upon the mailing by the Authority to the Lender of notice of termination pursuant to this section, the rights and duties of the Lender and its rights to compensation hereunder shall terminate.

17. The Authority may also terminate this Agreement without cause, upon fifteen (15) days written notice to the Lender, with the effective date of termination being the fifteenth day after the receipt of the notice.
18. The Lender may terminate this Agreement upon fifteen (15) days written notice, with the effective date of termination being the fifteenth day after the receipt of the notice.
19. For Mortgage Loans closed on or after the effective date of termination of this Agreement pursuant to Sections 16, 17 or 18 hereof, or initially submitted to the Authority for purchase more than ten (10) days after the effective date of termination, the Lender shall not be entitled to compensation for the origination of any Authority Mortgage Loans and shall be relieved of further responsibility in connection therewith unless any loss was incurred prior to termination due to the Lender's misfeasance, non-feasance, or malfeasance. In the event of such termination, the Lender shall pay over to the Authority all moneys collected and held by it pursuant to this Agreement and/or pursuant to any other agreement, letter or arrangement relative to any Authority Mortgage Loan within ten (10) days after the effective date of such termination, and turn over all documents and records in connection with the Authority Mortgage Loans, including a statement showing the monthly payments collected by it and a statement of moneys held in escrow by it for the payment of taxes, maintenance or other charges, in respect to the Authority Mortgage Loans within twenty (20) days after such termination. In case of termination of this Agreement, the Authority shall be under no liability whatsoever to the Lender by reason of such termination, except for payment regarding the purchase of Mortgage Loans originated and submitted within the times indicated in this paragraph.
20. Unless sooner terminated as herein provided or by mutual agreement, this Agreement shall continue from the date hereof indefinitely. All notices of termination are to be sent by certified mail, return receipts requested, or delivered personally, and the termination shall become effective on the date of receipt of said notice.
21. The Lender covenants and agrees that during the term of this Agreement: (a) it will furnish to the Authority a complete copy of the audit report of a Certified Public Accountant, which report shall be furnished not later than ninety (90) days after the end of the period covered thereby; (b) at the request of the Authority it will furnish the Authority with a copy of resolutions adopted by the Board of Directors of the Lender, certified in such fashion as may be acceptable to the Authority, authorizing named officers, employees and directors of the Lender to close and disburse Authority Mortgage Loans; and (c) it will furnish the Authority annually, as of the date upon which the annual report described in sub-section (a) of this Section is furnished, a statement from a Certified Public Accountant or an independent insurance agency or firm setting forth the amounts of the following (i) Fidelity Bond in force; (ii) Errors and Omissions Insurance in force; (iii) Forgery Insurance in force and (iv) Theft Insurance in force, all as required by Section 6 hereof.

22. The Lender may use commercially prepared or printed forms, or other forms (the "Outside Forms") not provided directly from the Authority to evidence the Loans and the supporting documentation required by the Authority; provided, however, that the forms not provided by the Authority shall contain precisely the same terms, conditions and covenants as those forms which otherwise would be provided by the Authority (the "Authority Forms"). The Lender further agrees and warrants that it will use the most current and correct forms required by any mortgage insurer (including the FHA) or guarantor.
23. The Lender agrees that in the event the Lender uses, or has used, an Outside Form and, for whatever reason, the terms, conditions and covenants of the Outside Form do not correspond exactly with the terms, conditions and covenants of the Authority Forms, the Lender shall, at the sole discretion of the Authority, repurchase the Loan from the Authority for the price of the then-outstanding principal balance, plus accrued interest, late charges and any other costs advanced or expended by the Authority in connection with that Loan plus any premiums as set forth in Exhibit A that the Authority may have paid to the Lender, including the service release fee. The Lender further agrees that in the event the Lender uses, or has used, forms that are not the most current or correct forms required by any mortgage insurer (including FHA) or guarantor, the Lender shall, at the sole discretion of the Authority, repurchase the Loan from the Authority for the price of the then-outstanding principal balance, plus accrued interest, late charges and any other costs advanced or expended by the Authority in connection with that Loan plus any premiums as set forth in Exhibit A that the Authority may have paid to the Lender, including the service release fee.
24. The Lender warrants that it is familiar with the Mortgage Subsidy Bond Tax Act of 1980, as amended, and the requirements necessary for obtaining and maintaining the tax-exempt status of Authority Mortgage Bonds. The Lender covenants and agrees that in the event the Lender makes a misrepresentation or fails to comply with the obligations under this agreement, or subsequent amendment, which results in a particular Authority Mortgage Loan being an unqualified Mortgage Loan under the Mortgage Bond Subsidy Tax Act of 1980, as amended, in that event the Lender shall, at the sole discretion of the Authority, repurchase the Loan from the Authority for the price of the then-outstanding principal balance, plus accrued interest, late charges and any other costs advanced or expended by the Authority in connection with that Loan plus any premiums as set forth in Exhibit A that the Authority may have paid to the Lender, including the service release fee.
25. Any notices required or permitted under this Agreement shall be either delivered personally, or mailed by first class mail to the party being notified. Notices to the Authority shall be delivered or sent to:

Director of Homeownership  
Michigan State Housing Development Authority  
735 East Michigan Avenue  
P.O. Box 30044  
Lansing, Michigan 48909

Notices to the Lender shall be delivered or sent to:

All time periods concerning notices contained in this agreement shall be calculated from the date such notice is sent, or, if personally delivered, on the date delivered.

26. This document contains the entire agreement between the parties hereto. Any amendment hereto shall be in writing executed on behalf of both parties hereto. The invalidity of any portion of this Agreement shall in no way affect the balance hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement by their duly authorized representatives, as of the day and year first above written.

(Lender)

MICHIGAN STATE HOUSING  
DEVELOPMENT AUTHORITY

By: \_\_\_\_\_ By: \_\_\_\_\_

Its: \_\_\_\_\_ Its: \_\_\_\_\_

**LENDER AGREEMENT—EXHIBIT A**

**Purchase Price Schedule**

<b>Days after closing (or after MSHDA final inspection acceptance letter)</b>	<b>Purchase price (% of loan balance)</b>
15 or fewer	100.25
16 through 30*	100.00
More than 30*, but before 1 <sup>st</sup> payment due	99.75
On or after 1 <sup>st</sup> payment due, but before 2 <sup>nd</sup> due	99.50
On or after 2 <sup>nd</sup> payment due	99.00

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\*For loans closed in February, the maximum number of days would be 28 or 29, depending on leap year. For months with 31 days, the period would be extended to 31 days for loans closing on the first of the month.



## **LENDER AGREEMENT – EXHIBIT B**

### **Documents for Commitment Package**

**A loan package submitted to MSHDA for Commitment must contain the following exhibits in the order listed below. Each document must be completed and signed where appropriate. All credit documents must be dated within 90 days of the date of submission to MSHDA unless otherwise indicated. The MSHDA form must be an original; all credit documents may be “certified true copies.”**

1. **Mortgage Loan Data Summary Sheet** (SFH 117).
2. **Insurance/Guaranty Certificate.** . Copy of FHA 92900 (Mortgage Credit Analysis Worksheet approved and signed by DE underwriter), VA 26-6393 Loan Analysis (signed by the lender’s Underwriter), **USDA-RD Conditional Commitment for Single Family Housing Loan Guarantee** or private mortgage insurance commitment
3. **Loan Application** (FNMA 1003). Signed by all borrowers. The two-page FHA/VA addendum (HUD-92900/VA 26-1866a) must be included for FHA and VA loans.
4. **Homebuyer Counseling Certificate** on conventional loans with a 97% LTV or greater and all Down Payment Assistance loans.
5. Satisfactory evidence of **Social Security number** issued to Applicant (Social Security card, W-2, pay stub, etc.) and **Driver’s License**.
6. **Notice to Buyers**, if case is either FHA or VA insured. Appropriate form is required. FHA Notice to Buyers - SFH 123-A. VA Notice to Buyers - SFH 123-B.
7. **Credit Report(s)** – merged 3-company file.
8. **Child Support Verification** – Statement from Friend of the Court OR Child Support Statement (SFH 132). (See Lender Letter No. 15 dated July 25, 2003)
9. **Verification of Household Income** as described in Section 9 of the Operating Manual.  
(a) **10. Verification of Assets** – as described in Section 10 of the Operating Manual.
11. If **Subordinate Lien(s)** other than MSHDA Single Family DPA, a copy of proposed mortgage(s), note(s) and other pertinent documents.
12. **Purchase Agreement/Contract to Build**.
13. **Appraisal** as described in Section 15 of the Operating Manual.
14. **Initial Application Affidavit** (SFH 106).

15. **Non-Targeted Area Verification of Prior Residency.** Credit Report that covers at least 3 years history **OR** copies of signed Federal Tax Returns with all schedules for the 3 years immediately preceding the execution of the mortgage documents evidencing no prior homeownership during this period **OR** a copy of an IRS letter stating that its form 1040A or 1040EZ was filed for such year **OR** IRS Tax Transcripts **OR** an Income Tax Affidavit (SFH 108), if tax returns are not required by law.
16. Required **Builder Information** - new homes only: Equal Opportunity Builder Certificate (SFH 110). Current Builder's License to be retained in Lender's file.
17. **FNMA 1008 – Transmittal Summary** (conventional and RD loans only), signed by lender's underwriter.
18. **Certified True Copy** Statement from Lender.
19. If **ADR-DPA**, Federal and State Compliance Certification (SFH 023) signed by grantee.
20. Additional pertinent exhibits as may be necessary to explain any unusual circumstance of the case, including any mortgage, note, and other documents to support a request for a subordinate lien approval.

## **LENDER AGREEMENT - EXHIBIT C**

### **Closing and Final Document Packages**

#### **I. Closing Documents to be submitted for purchase:**

1. Mortgage Document Control Sheet – Original (**universal**)
2. Lender Warranty – Original (on lender letterhead)
3. Private Mortgage Insurance Certificate – Original (if applicable)
4. FHA Insurance - Electronic Submission – Copy (if applicable)
5. Mortgage Note - Original
6. Mortgage Note for Down Payment Assistance – Original (if applicable)
7. Interest Modification Allonge Amending Note – Original (if applicable)
8. Property Survey, if applicable – Copy (dated within 6 months from closing)
9. Mortgage – Copy
10. Mortgage for Down Payment Assistance, if applicable - Copy
11. Tax-Exempt Financing Rider – Copy (**universal**)
12. Corporation Assignment, if applicable – Copy
13. MSHDA Assignment of Mortgage - Copy
14. Title Insurance Commitment - Original (with front and back jacket covers)
15. First Lien Letter – Copy (if closed by a Title Company)
16. MSHDA Appraiser Inspection and Certificate – Original (if applicable)
17. Settlement Statement – Copy (HUD form I and II)

18. Seller Affidavit – Original
19. Final Application Affidavit and Notice of Potential Recapture Tax Affidavit - Original
20. Notice of Recapture Tax to Mortgage Loan Applicants - Original
21. Truth-In-Lending Disclosure Statement - final - Copy

**II. Final Documents to be submitted within 6 months of the closing date:**

1. Recorded Mortgage, including Tax-Exempt Financing Rider, if applicable - Original (or Mortgages, if the Authority is to purchase more than one)
2. Recorded MSHDA Assignment of Mortgage - Original
3. Title Insurance Policy, including any required endorsements - Original

**III. The following must be submitted with Final Documents, if applicable:**

1. FHA Insurance Certificate - Original
2. Recorded Corporation Assignment - Original
3. Loan Note Guarantee, if applicable - Original
4. Lender Record Change, if applicable - Copy
5. Manufactured/Mobile Home - Certificate of Title (copy) **AND** “Affidavit of Intent and Agreement as to Classification” (original); **OR** ALTA 7 included a part of the final title insurance policy

## **LENDER AGREEMENT- EXHIBIT D**

### **Lender Performance Criteria**

In order to maintain status as an Authority originator, all lenders will be evaluated annually based upon the following performance criteria:

- 1) The Lender must offer the Authority's Single Family Mortgage Products to its customers as evidenced by:
  - a. Submission of a minimum of 10 loans for purchase during each calendar year.
  - b. Displaying MSHDA's brochures in its loan originating offices.
  - c. Processing all applicants for MSHDA loans if referred to them directly by the Authority, MSHDA counseling agents, local governmental partners, or non-profit agencies if the applicant meets the Authority's program eligibility. (Substantiated complaints from borrowers or other MSHDA homeownership partners that customers were not offered MSHDA loan products will be grounds for removal from the program).
- 2) Provide timely and accurate processing of loans as documented by:
  - a. 75 % of all loan reservations must be submitted and committed within 90 days of the reservation.
  - b. Maintaining a 100 % efficiency rating for closing on committed loans prior to the 90 day allotted commitment for existing properties and 180 day allotted commitment for new construction loans.
  - c. Maintain a 90% efficiency rating for submission of final loan documents within 180 days of closing.
  - d. All Lender branches converted to Lender-on-Line reservation system within six months of executing an agreement with the Authority.

Each Lender will be evaluated on all factors after the completion of each calendar year. If it is determined that the Lender is not meeting the performance criteria established by the Authority, the Lender will be contacted and given an opportunity to respond to the Authority's findings. If the findings cannot be invalidated the Lender may, at the Authority's sole discretion, be terminated from all of the Authority's Single Family lending programs.

If a Lender's participation is terminated for any reason, the lender may be reinstated for a charge of \$200 provided the reason for termination can be corrected. Additional reinstatements after the first will increase in cost to the Lender by \$200 for each reinstatement.